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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION.

Written statement* submitted by the International League for the Rights and Liberation of Peoples (LIDLIP), a non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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ENG

The constitutional recognition of indigenous rights and culture. The struggle for autonomy in Mexico.

The International League for the Rights and Liberation of Peoples (LIDLIP) has for years been demanding the right to self-determination for indigenous peoples. As subjects of international law, they must be entitled to dispose freely of their own resources, wealth, culture and tradition. Numerous international covenants require the recognition of this right and urge states to fulfill their obligations in this regard. LIDLIP is, inter alia, concerned with the specific situation of indigenous peoples in Mexico.

1. In Mexico, indigenous peoples are struggling for their autonomy and self-determination. The San Andres Accords represent a high point in this struggle.

2. With the signing of the San Andres Accords (16 February 1996) by representatives of the Executive Branch, by a commission of the Legislative Branch that included congressional representatives, by senators from all of the political parties in Mexico, and by representatives of the Zapatista Army of National Liberation (EZLN), the possiblity emerged of bringing to a close the the conflict between, on the one hand, 56 indigenous peoples and, on the other, Mexican society and government. Through a social covenant, these Accords propose to create a new relationship between the Mexican state and its indigenous peoples.

3. The signing of these accords awakened the hope for a just and dignified solution to the conflict. It should not be forgotten that the accords were the result of a nation-wide debate in which the majority of Mexico's indigenous peoples, specialists and a large part of civil society participated. The EZLN opened the debate and presented at the negotiating table the conclusions reached by consensus.

San Andres Accords

4. On 29 November 1996, the Commission of Resolution and Pacification of the Congress of the Union announced, in conformity with its legal provisions, an initiative (COCOPA Law) to reform the constitution of the republic in order to guarantee the implementation of the San Andres Accords.

5. The so-called COCOPA Law, drafted by a commission of the Mexican Parliament in which all the congressional parties were represented, is the enabling legislation for the implementation of the Accords. It was approved by the EZLN as well as the indigenous movement, which regarded it as a minimal legal provision for implementation. It was viewed otherwise by the federal government, presided over by Mr. Ernesto Zedillo Ponce de Leon, who introduced a series of observations that violated the spirit of the accords.

6. As a consequence of the refusal of the Mexican government to implement the accords, the Zapatista National Liberation Army (EZLN) suspended the talks.

7. With the accession to power of the new government of Mr. Vicente Fox, the government agreed to present the proposed COCOPA Law for approval to the congress and senate.

8. On 25 April 2001, the Senate, by an unanimous vote of all the senators present, approved the reform to the Constitution regarding the rights of indigenous peoples.

9. The legislative branch substantially modified the initial proposal, approving a constitutional reform that does not satisfy the proposals of the indigenous peoples and was soundly rejected by the EZLN and the CNI (Indigenous National Congress). The CNI, the EZLN and a wide spectrum of civil society considered that the reform, which they rejected, contradicted the San Andres Accords and the spirit of the COCOPA law, betraying several fundamental issues, inter alia: autonomy and self-determination; indigenous peoples as subjects of public law; land and territories; the use and enjoyment of natural resources; election of municipal authorities; the right to regional association. The immediate consequence was that the Zapatista National Liberation Army broke off the negotiations.

10. Since then and until today nearly 300 constitutional complaints have been filed against this law, arguing that it fails to observe Convention 169 of the OIT, that the law does not recognize indigenous peoples as legal subjects, that it prevents, among other things, association among different communities and that it does not guarantee them the use of their natural resources.

11. After the electoral victory of Vicente Fox in the 2000 presidential elections, the Zapatistas demonstrated their will to return to the negotiating table, provided the new government met three tests of goodwill: 1. approval of the COCOPA law; 2. liberation of the Zapatista prisoners; 3. the dismantling of seven of the 259 established military instalations.

12. The necessity on the part of the federal government and the local authorities to offer something positive in response to the demands of the EZLN to renew the talks opened the doors of the prisons for nearly one hundred prisoners subjected irregular sentences or trials, all of whom shared a common denominator: they were part of the social base or sympathized with the EZLN. But with the breaking off of contact between the government and the EZLN, this process was stopped, for the various political authorities abandoned it, and nine of these prisoners are still in prison.

Militarization

13. While the patrols and reserves of the Mexican army in the indigenous communities of Chiapas have been gradually increasing, and it has become customary for soldiers to improvise check points on the outskirts of towns in order to harrass and intimidate indigenous people, submitting them to interrogations, according to reports of several human rights organizations.

14. In spite of the official propaganda disseminated at both the national and the international level, the 252 army positions denounced at the time are still functioning, and the number of troops is the same as before 1 December 2000. The only difference is that their deployment and movements have become discrete following the request by the EZLN for their withdrawal from seven positions.

15. Non-governmental Organizations (ONG) have registered at least 104 military actions in indigenous communities of 16 municipalities since the government of Vicente Fox has come to power. They claim that the military interventions became more acute after the approval by the Congress of the Union of the reform related to indigenous issues.

Paramilitaries

16. The Mexican Academy of Human Rights (Academia Mexicana de Derechos Humanos) has conducted an investigation that arrived at the figure of 15 armed civil groups, ten of which are fully identified as paramilitaries currently operating in Chiapas.

17. According to the representative of the Council of Human Rights of the Northern region, paramilitary groups continue to be a permanent danger for social organizations and communities struggling for the defence of their rights, and in particular for their self-determination, since the paramilitaries have never been really brought into line by the federal and state authorities, much less disbanded or punished.

18. Paramilitary groups such as "Peace and Justice" (whose leaders have been inexplicably liberated) continue to generate multiple conflicts, closing paths, practicing policies of terror, killing and constant aggression against Zapatista communities. They are supported, as usual, by the former municipal structures and the communities led by the PRI and enjoy the complicity, by ommission and commission, of the army and the security units of various governmental entities.

Free Access to Justice

19. In many cases, the indigenous are submitted to judicial trials for accusations that have their origin in social conflicts and are subject to ministerial investigations in which evidence and false testimonies are fabricated in order to legitimize the trials, which generally culminate in an unjust sentence. During criminal trials the human rights of the indigenous are not respected nor is their indigenous condition, and even less are they considered as subjects of public law. They are subjected to criminal trials without understanding the accusations against them, without understanding the legal mechanisms in force, and they are sentenced to severe prison terms without having had an adequate defense.

20. Not only has the respect for human rights in Mexico not changed in the first seven months of the government of Vicente Fox, but there are also threats to social, economic and cultural guarantees, as reflected in the 300 recommendations by international organisms that still have not been addressed by the current government.

21. Attacking the causes that created the conflict in Chiapas is the best solution for setting a precedent that recognizes the orginal peoples of Mexico as part of the nation and takes into account their situation of misery and abandon and creates the necessary instruments to avoid the exploitation they have always suffered.

22. Given what has been presented above, the International League for the Rights and Liberation of Peoples (LIDLIP) asks the Mexican government to:
1.) implement the Accords signed in San Andres (COCOPA law), as a first sign of its intention to allow indigenous peoples of Mexico to exercise their self-determination;
2.) withdraw the army to the barracks;
3.) disband the paramilitary groups;
4.) assure free access to justice;
5.) promote the struggle against impunity, through concrete actions that are not just symbolic;
6.) liberate political prisoners; and
7.) facilitate the return of all displaced persons, eliminating the causes behind their displacement

and compensating them for damages suffered.

23. The International League for the Rights and Liberation of Peoples (LIDLIP) asks the Commission on Human Rights to appoint a Special Rapporteur for Mexico.